

## **ORDINANCE NO. 16-166**

### **AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CRESTON, IOWA, 1996, BY ADDING A NEW CHAPTER, CHAPTER 128 ENTITLED "RAGBRAI – MISCELLANEOUS PERMITS AND REGULATIONS"**

**BE IT ENACTED** by the City Council of the City of Creston, Iowa:

**SECTION 1.** That the Municipal Code of the City of Creston, Iowa, be amended by the following Ordinance designated "RAGBRAI ORDINANCE", which because of its temporary nature, shall not be printed as part of the permanent Code of Ordinances. This ordinance is enacted to help city officials and citizens deal with the public health and safety problems created by the infusion of a large number of people into the City of Creston when the Des Moines Register's Annual Great Bicycle Ride Across Iowa™ (RAGBRAI®) arrives in Creston on July 25, 2016 and departs on July 26, 2016.

**SECTION 2.** That General Code Provisions, Chapter 128, RABGRAI – Miscellaneous Permits and Regulations of the Code of Ordinances of the City of Creston, Iowa, be and the same is hereby amended to read as follows:

#### **General Code Provisions Chapter 128 RABGRAI Ordinance – Miscellaneous Permits and Regulations**

**Sections:**

- 128.01 Commercial Booth Food – Permit Required
- 128.02 Commercial Booth Food Fees
- 128.03 Commercial Booth Food Location
- 128.04 Non-Profit Booth Food – Permit Required
- 128.05 Non-Profit Booth Food Fees
- 128.06 Non-Profit Booth Food Location
- 128.07 Health Regulations

128.08	Commercial Booth Non-Food – Permit Required
128.09	Commercial Booth Non-Food Fees
128.10	Commercial Booth Non-Food Location
128.11	Non-Profit Booth Non-Food – Permit Required
128.12	Non-Profit Booth Non-Food Fees
128.13	Non-Profit Booth Non-Food Location
128.14	Charge for Electricity at any Booth or Location
128.15	Deposit Fee for Cleanup
128.16	Proof of Liability Insurance
128.17	Declining Permit
128.18	Application Deadline
128.19	Glass Containers
128.20	Nuisance
128.21	Violations – Penalties
128.22	Effective Period
128.23	Street Closings
128.24	Golf Cart, Gator and Similar Vehicles
128.25	Primary Entertainment Venue and Beverage Garden
128.26	Authority

**128.01 Commercial Booth Food – Permit Required.** No for-profit person, club, group, organization, corporation or entity of any kind shall provide or sell food to the public in Creston on July 25, 2016 or July 26, 2016, at a location other than their regularly-established place of business unless said person or entity shall first obtain a Commercial Booth Food Permit from the Creston RAGBRAI Committee at 208 W. Taylor Street, PO Box 471, Creston, IA 50801. However, any person or entity which is a resident of Union County and in possession of a valid permit issued by the State of Iowa for the sale of food to be consumed on its premises as of June 13, 2016, or in possession of a current Iowa retail sales tax permit, shall be exempt from the requirements of this Section.

**128.02 Commercial Booth Food Fees.** The fee for a Commercial Booth Food Permit shall be \$750.00.

**128.03 Commercial Booth Food Location.** A vendor who has been granted a Creston Commercial Booth Food Permit shall locate its temporary sale facility at a location to be determined by the official Creston RAGBRAI Committee.

**128.04 Non-Profit Booth Food – Permit Required.** No non-profit person, club, group, organization, corporation or entity of any kind shall provide or sell food to the public in Creston on July 25, 2016, or July 26, 2016, at a location other than their regularly-established place of business unless said person or entity shall first obtain a Non-Profit Booth Food Permit from the Creston RAGBRAI Committee at 208 W. Taylor Street, PO Box 471, Creston, IA 50801. Those Creston organizations that operate only from their regularly established locations are exempt from the requirements of this section.

**128.05 Non-Profit Booth Food Fees.** The fee for a Non-Profit Booth Food Permit shall be \$350.00.

**128.06 Non-Profit Booth Food Location.** A vendor who has been granted a Creston Non-Profit Booth Food Permit shall locate its temporary facility at a location to be determined by the official Creston RAGBRAI Committee.

**128.07 Health Regulations.** A person or entity issued a commercial or non-profit booth food permit pursuant to this Chapter shall comply with the Iowa Department of Health and Union County Department of Health rules and regulations pertaining to the sale and dispensing of food for consumption on its premises.

**128.08 Commercial Booth Non-Food – Permit Required.** No for-profit person, club, group, organization, corporation or entity of any kind shall provide or sell merchandise to the public in Creston on July 25, 2016, or July 26, 2016, at a location other than their regularly-established place of business unless said person or entity shall first obtain a Commercial Booth Non-Food Permit from the Creston RAGBRAI Committee at 208 W. Taylor Street, PO Box 471, Creston, IA 50801. However, any person or entity which is a resident of Union County and in possession of a valid permit issued by the State of Iowa for the sale of merchandise as of June 13, 2016, or in possession of a current Iowa retail sales tax permit, shall be exempt from the requirements of this Section.

**128.09 Commercial Booth Non-Food Fees.** The fee for a Commercial Booth Non-Food Permit shall be \$750.00.

**128.10 Commercial Booth Non-Food Location.** A vendor who has been granted a Creston Commercial Booth Non-Food Permit shall locate its temporary sale facility at a location to be determined by the official Creston RAGBRAI Committee.

**128.11 Non-Profit Booth Non-Food – Permit Required.** No non-profit person, club, group, organization, corporation or entity of any kind shall sell merchandise to the public on July 25, 2016, or July 26, 2016, at a location other than their regularly-established place of business unless said person or entity shall first obtain a Non-Profit Booth Non-Food Permit from the Creston RAGBRAI Committee at 208 W. Taylor Street, PO Box 471, Creston, IA 50801. Those Creston businesses that operate only from their regularly established locations are exempt from the requirements of this section.

**128.12 Non-Profit Booth Non-Food Fees.** The fee for a Non-Profit Booth Non-Food Permit shall be \$350.00.

**128.13 Non-Profit Booth Non-Food Location.** A vendor who has been granted a Creston Non-Profit Booth Non-Food Permit shall locate its temporary facility at a location to be determined by the official Creston RAGBRAI Committee.

**128.14 Charge for Electricity at any Booth or Location.** Any booth requiring electricity, shall make arrangements for service through the official Creston RAGBRAI Committee. The minimum fee shall be \$75.00. Additional charges may apply if more than basic electrical needs are requested. **No booth may provide their own electric generator or alternate source of electricity.**

**128.15 Deposit Fee for Cleanup.** Each booth shall be charged a refundable \$100.00 fee for cleanup. Each site shall have all trash, waste, leftovers, etc., removed from the site and/or properly disposed of. Upon satisfactory inspection of site after shut down, the fee shall be recommended for refund of the deposit. All temporary signs, markings, etc., shall be thoroughly removed. If the area is **unsatisfactory**, the fee shall be forfeited. The decision of the Creston RAGBRAI Official shall be final.

**128.16 Proof of Liability Insurance.** Certificate of Insurance issued by an insurance company licensed to do business in the State of Iowa, providing comprehensive or commercial liability insurance with a minimum of \$1,000,000 combined single limit coverage for the injury or death of any person, for the damage to property of others and for acts of negligence by the RAGBRAI permit holder, permit holder's agent(s), or employees, while participating in market activities. Said Certificate shall require notice to the City, in conformity with general city standards for Certificates of Insurance, in the event the underlying policy of insurance is cancelled for any reason. Termination of insurance coverage, as required by this section, shall immediately revoke RAGBRAI permit holder's, permit holder's agent(s), or employees' right to operate under this ordinance.

**128.17 Declining Permit.** The Creston RAGBRAI Committee shall approve all permits and have sole discretion to decline to issue a permit for any reason, provided, however, that no applicant for a permit shall be denied based upon the race, creed, color, sex, age or country of origin of the applicant.

**128.18 Application Deadline.** All applications for permits must be received by June 1, 2016. Applications received after this date are not ensured of approval and are subject to a \$250.00 late fee.

**128.19 Glass Containers.** To promote safety during RAGBRAI, all beverages sold in Creston, Iowa, by Commercial and Non-Profit Booth permitted vendors, on July 25, 2016, and until 10:00 a.m. on July 26, 2016, shall be sold in non-glass containers only. This requirement shall also apply to any existing business, restaurant, service station, grocery store or other establishment selling beverages on its premises in an outdoor setting open to the public.

**128.20 Nuisance.** The sale of food or the erection of a temporary facility for the sale of food or other merchandise without a Creston Commercial Booth or Creston Commercial Booth Non-Food Permit on July 25 or 26, 2016, in violation of the provisions of this Chapter shall be considered a nuisance, as defined by the Code of Ordinances. If this type of nuisance is determined to exist, the notice, reasonable time to rehabilitate the nuisance, and appeal

procedure sections contained in Chapter 50 of the Creston Municipal Code are suspended under the authority of this section, and an emergency procedure is hereby authorized to immediately abate the nuisance under this section. This emergency abatement procedure may be executed by any peace officer or those acting at their direction by dismantling and removing the nuisance without notice.

**128.21 Violations – Penalties.** Selling or supplying food or merchandise to the public without a Creston Commercial / Non-Profit Booth Food Permit, or Creston Commercial / Non-Profit Booth Non-Food Permit on July 25 or 26, 2016, or any violation of this chapter shall be a simple misdemeanor punishable by a minimum fine of \$500.00 and/or a maximum of thirty (30) days in jail. Furthermore, any violation of this Chapter shall constitute a municipal infraction, as set forth in Chapter 4 of the City Code of Ordinances, and, therefore, any civil penalties may likewise be assessed and enforced as set forth.

**128.22 Effective Period.** The provisions of this ordinance shall be effective from 5:00 a.m. (local time) on Sunday, July 24, 2016, until 10:00 a.m. (local time) on Tuesday, July 26, 2016.

**128.23 Street Closings.** During the effective dates of this ordinance and without prior Council approval regarding the blocking of any city streets, the Creston RAGBRAI Committee, Police Chief, or those at their direction, may place barricades or road blocks in any City street, alley or roadway to redirect vehicular traffic in order to enhance the proper and safe flow of bicycle and vehicular traffic within the City limits of the City of Creston. The following streets shall be closed from 1:00 p.m. on Sunday, July 24, 2016, until 10:00 a.m. on Tuesday, July 26, 2016: West Adams Street from Pine Street to Oak Street; McKinley Street, Lakeshore Drive and Spillway Road from West Adams Street. The East and West Depot Parking Lots and City-owned parking lot on the corner of Adams and Elm Streets must be cleared of all vehicles by Sunday, July 24, 2016, at 10:00 a.m., or will be subject to being towed.

**128.24 Golf Car, Gator and Similar Vehicles.** Official members of the Creston RAGBRAI Committee and others designated by the Creston RAGBRAI Committee may operate golf carts (or other similar vehicles not designed for street use) on the City streets and other public property on July 24, 25 and 26, 2016, provided they shall otherwise remain subject to all traffic laws and the direction of local law enforcement personnel, and FURTHER PROVIDED that the operator shall at all times have an official authorization tag issued by a Creston RAGBRAI Official in their possession while operating a golf cart (or other similar vehicle).

**128.25 Primary Entertainment Venue and Beverage Garden.** The primary and only entertainment venue beverage garden shall be located in the West Depot Parking Lot and on Elm Street between the West Depot Parking Lot and the City-owned parking lot located on the southwest corner of Adams and Elm Streets, and other areas as shown on the attached map which is incorporated by reference. The beverage garden shall be constructed so as to meet the requirements of the vendor's liquor liability insurance and the liquor license or beer permit. Only beverage gardens already having a licensed outdoor sales permit prior to the announcement of RAGBRAI 2016 on January 23, 2016, shall be allowed to operate during

Creston RAGBRAI 2016. No other outdoor entertainment other than the official Creston RAGBRAI 2016 venue as established by the official Creston RAGBRAI Committee shall be allowed to operate during or on July 25 or 26, 2016.

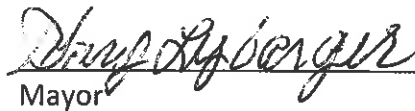
**128.26 Authority.** Any and all issues and appeals regarding this ordinance will be brought to the official Creston RAGBRAI Officials for resolution.

**SECTION 3. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.


**SECTION 4. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 5. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved by this Council on the 19<sup>th</sup> day of April, 2016.

  
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Mayor

ATTEST:


  
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City Clerk

First Reading: April 19, 2016

Second Reading: April 19, 2016

Third Reading: April 19, 2016

I certify that the foregoing was published as Ordinance No. 16-166 on the 27<sup>TH</sup> day of April, 2016.

  
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City Clerk